

AMENDED IN ASSEMBLY APRIL 9, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 411**

**Introduced by Assembly ~~Member Wayne~~ Members Wayne  
and Shelley**

**(Coauthors: Assembly Members Bowen and Lempert)**

**(Coauthors: Senators Alpert, Craven, Karnette, and  
Watson)**

February 20, 1997

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An act to amend Sections 115880, 115885, and 115915 of the Health and Safety Code, relating to public beaches.

LEGISLATIVE COUNSEL'S DIGEST

AB 411, as amended, Wayne. Beach sanitation: posting.

Existing law requires the State Department of Health Services to adopt regulations establishing minimum standards for the sanitation of public beaches. Violation of these regulations adopted by the department is a crime.

This bill would require these regulations to require the testing of all *public* beaches, *as defined*, for total coliform, fecal coliform, enterococci, and streptococci bacteria, to establish protective minimum standards for the location of monitoring sites and monitoring frequency, to require posting in clearly visible points along affected *public* beaches whenever state standards are violated, and to require that *public* beaches be tested for total coliform, fecal coliform, enterococci, and streptococci bacteria ~~and—chemical pollutants including, but not limited to, PCBs, PAHs, and~~

~~mercury~~ on a weekly basis from April 1 to October 31, inclusive, of each year if certain conditions are met. By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would require local health officers to be responsible for testing *public* beaches within ~~this~~ *their* jurisdiction, except state beaches, which the bill would require the department to test. By increasing the duties of local health officers, this bill would impose a state-mandated local program.

Existing law requires the local health officer to post a beach with conspicuous warning signs whenever the beach fails to meet certain bacteriological standards, and it is determined that the cause of the elevated levels constitutes a public health hazard.

This bill would, in addition, require the local health officer to post a beach with conspicuous warning signs, *as described*, whenever the beach fails to meet the standards developed by the department established pursuant to this bill.

Existing law requires each local health officer to notify the Director of Parks and Recreation when a *public* beach is in violation of the sanitation standards.

This bill would, instead, require the local health officer to notify the Director of Parks and Recreation within 24 hours of any *public* beach posting, closure, or restriction, and would require the Director of Parks and Recreation to establish a telephone hotline and update it daily to inform the public of beach postings, closures, and restrictions. By increasing the duties of the local health officer, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.



With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 115880 of the Health and Safety  
2 Code is amended to read:  
3 115880. (a) The department shall by regulation  
4 establish minimum standards for the sanitation of public  
5 beaches, including, but not limited to, the removal of  
6 refuse, as it determines are reasonably necessary for the  
7 protection of the public health and safety.  
8 (b) The regulations shall, at a minimum, do all of the  
9 following:  
10 (1) Require the testing of all *public* beaches for total  
11 coliform, fecal coliform, enterococci, and streptococci  
12 bacteria.  
13 (2) Establish protective minimum standards for the  
14 location of monitoring sites and monitoring frequency.  
15 (3) Require posting in clearly visible points along  
16 affected *public* beaches whenever state standards are  
17 violated.  
18 (4) Require that *public* beaches be tested for total  
19 coliform, fecal coliform, enterococci, and streptococci  
20 bacteria ~~and chemical pollutants including, but not~~  
21 ~~limited to, polychlorinated biphenyls (PCBs),~~  
22 ~~polyaromatic hydrocarbons (PAHs), and mercury on a~~  
23 ~~weekly basis~~ *on a weekly basis* from April 1 to October 31,  
24 inclusive, of each year if all of the following apply:  
25 (A) The beach is visited by more than 50,000 people  
26 annually.  
27 (B) The beach is located on an area adjacent to a storm  
28 drain that flows in the summer.  
29 (c) The local health officer shall be responsible for  
30 testing all *public* beaches within his or her jurisdiction,

1 except state beaches which shall be tested by the  
2 department.

3 (d) Any city or county may adopt standards for the  
4 sanitation of public beaches within its jurisdiction that are  
5 stricter than the standards adopted by the state  
6 department pursuant to this section.

7 (e) *For purposes of this section, “public beach” means*  
8 *any public beach located within the coastal zone, as*  
9 *defined in Section 30103 of the Public Resources Code.*

10 SEC. 2. Section 115885 of the Health and Safety Code  
11 is amended to read:

12 115885. The health officer having jurisdiction over  
13 the area in which a public beach is created shall:

14 (a) Inspect the public beach to determine whether the  
15 standards established pursuant to Section 115880 are  
16 being complied with. If the health officer finds any  
17 violation of the standards, he or she shall restrict the use  
18 of, or close, the public beach or portion thereof in which  
19 the violation occurs until such time as the standard  
20 violated is complied with.

21 (b) Investigate any complaint of a person of a violation  
22 of any standard established by the department pursuant  
23 to Section 115880. If the health officer finds any violation  
24 of the standards prescribed by the department, he or she  
25 shall restrict the use of, or close, the public beach or  
26 portion thereof until the time as the standard violated is  
27 complied with. If the person who made the complaint is  
28 not satisfied with the action taken by the health officer,  
29 he or she may report the violation to the department. The  
30 department shall investigate the reported violation, and,  
31 if it finds that the violation exists, it shall restrict the use  
32 of or close the public beach or portion thereof until the  
33 standard violated is complied with.

34 (c) (1) Whenever a beach is posted, closed, or  
35 otherwise restricted, the health officer shall inform the  
36 Director of Parks and Recreation within 24 hours of the  
37 posting, closure, or restriction.

38 (2) The Director of Parks and Recreation shall  
39 establish a telephone hotline to inform the public of all

beaches currently closed, posted, or otherwise restricted.  
The hotline shall be updated daily.

(d) Report any violation of the standards established pursuant to Section 115880 to the district attorney, or if the violation occurred in a city and, pursuant to Section 41803.5 of the Government Code, the city attorney is authorized to prosecute misdemeanors, to the city attorney.

SEC. 3. Section 115915 of the Health and Safety Code is amended to read:

115915. (a) Whenever any beach fails to meet the bacteriological standards of Section 7958 of Title 17 of the California Code of Regulations, or any of the standards established pursuant to subdivision (b) of Section 115880, the health officer shall, at a minimum, post the beach with conspicuous warning signs to inform the public of the nature of the problem and the possibility of risk to public health.

(b) *A warning sign shall be visible from each legal primary beach access point, as identified in the coastal access inventory prepared and updated pursuant to Section 30531 of the Public Resources Code, and any additional access points identified by the health officer.*

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the

1 claim for reimbursement does not exceed one million  
2 dollars (\$1,000,000), reimbursement shall be made from  
3 the State Mandates Claims Fund.

4 Notwithstanding Section 17580 of the Government  
5 Code, unless otherwise specified, the provisions of this act  
6 shall become operative on the same date that the act  
7 takes effect pursuant to the California Constitution.

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